R E M A R K S

Claims 1 – 10 are pending in the application.

35 U.S.C. §102

The Office Action rejects claims 1 – 4, 6 and 8 – 10 under 35 U.S.C. §102(b) over Legout et al. (EP 1322094 A1), hereinafter "Legout."

Applicant submits that for at least the following reasons, claims 1 – 4, 6 and 8 – 10 are patentable over Legout.

For example, claim 1 requires:

> "*a receiver for receiving the content, the receiver comprising: a selector for selecting a distributor of the content out of a plurality of distributors; content-requesting means for requesting the content from the distributor selected; receiving means for receiving the content; identity-determining means for determining an identity associated with the content; and a verifier for verifying an availability of the content at the distributor based on the identity determined.*"

Furthermore, claim 1 recites that:

> "*the receiver is arranged to only select the distributor if the verifier verified the availability of the content at the distributor.*"

In contrast to applicant's features, Legout only describes that the end-user's computer sends a request to a redirection server which receives the information from the end-user's computer and then determines which proxy server can serve the information to the end-user's computer. Legout fails to teach or suggest the claimed features.

The Office Action, page 11, apparently equates the client (Legout, paragraph [0028]) as being equivalent to the claimed receiver. However, Legout, paragraph [0028], recites:

> "The invention proposes a method for selecting a surrogate server, in a content delivery network. It is intended to select the "optimal" surrogate server for the requested resource, for a request from a given user (or client). The word "optimal" reflects the capacity of the CDN to provide the requested resource to the user, as fast and as conveniently as possible for the user and, in the case of streams, as uninterrupted as possible."

It is clear from the above passage that the role of a client in Legout is equivalent to that of a user who sends requests, because Legout introduces the "client" inside a pair of parenthesis as an alternative to the user. Applicant submits that the client of Legout does not provide any features even comparable to applicant's claimed selector for selecting a distributor of the content out of a plurality of distributors; identity-determining means for determining an identity associated with the content; and a verifier for verifying an availability of the content at the distributor based on the identity determined.

The Office Action is apparently using the "client" (Legout, paragraph [0028]) as a catch-all element to fill in the feature gaps between Legout and the claimed invention. The Office Action alleges that a client is an application or system that obtains results, and hence that the client is equivalent to the various claimed elements. For example, on page 12 of the Office Action, the Office asserts that the client may include a selector for selecting a distributor of the content out of a plurality of distributors; identity means for determining an identity associated with the content; and a verifier for verifying an availability of the content at the distributor based on the identity determined. Also, on page 13, the Office Action alleges that the client may be a receiver arranged to determine an identity by receiving the identity from one out of a plurality of distributors.

Applicant respectfully disagrees that Legout teaches or suggests a client that performs the above features. This is because, nothing in Legout teaches or suggests that a client (or a user) performs the above features, and furthermore, Legout discloses that a client merely sends requests to servers (see for examples, Legout, paragraphs [0002], [0004], and [0006]). In addition, Legout, paragraph [0010], recites:

> "In view of this prior art, there is a need for a method for selecting in a content delivery network, the "best" surrogate server for serving requests to users. Such a method should be fast, easy to implement; preferably, <u>it should not necessitate additional software or hardware at the client's side</u> or additional hardware within the network. The method should serve the users as rapidly as possible, and should not cause unnecessary latency." (Emphasis added)

Clearly from the above passage, Legout does not intend the client to play any bigger role other than that of a user because Legout discloses that <u>it should not necessitate additional</u>

<u>software or hardware at the client's side</u>. This strongly suggests that Legout does not intend that the client to be a catch-all element to serve as a receiver, selector, identity means and verifier.

Although the Office argues that a client is an application or system that obtains results, Applicant submits that there is no basis in Legout to extend the role of the client as alleged in the Office Action. It is clear from Legout that the role of the client (paragraph [0028]) is intended to be equivalent to that of a user. Therefore, Legout does not teach or suggest a receiver for receiving the content, the receiver comprising: a selector for selecting a distributor of the content out of a plurality of distributors; content-requesting means for requesting the content from the distributor selected; receiving means for receiving the content; identity-determining means for determining an identity associated with the content; and a verifier for verifying an availability of the content at the distributor based on the identity determined, as claimed.

In view of at least the foregoing, claim 1 is patentable over Legout.

Similarly, independent claim 8 requires:

> "*a selector for selecting a distributor of the content out of a plurality of distributors;*
> *content-requesting means for requesting the content from the distributor selected;*
> *receiving means for receiving the content;*
> *identity-determining means for determining an identity associated with the content; and*
> *a verifier for verifying an availability of the content at the distributor based on the identity determined,*
> *and wherein the receiver is arranged to only select the distributor if the verifier verified the availability of the content at the distributor.*"

In addition, independent claim 9 requires:

> "*selecting, by a receiver, a distributor of the content out of a plurality of distributors,*
> *requesting, by the receiver, the content from the distributor selected,*
> *dispatching the content to the receiver in response to receiving the request for the content from the receiver,*
> *receiving the content at the receiver,*
> *determining an identity associated with the content, and*
> *verifying an availability of the content at the distributor based on the identity determined,*
> *and wherein, in the step of selecting, the distributor is only selected if the verifier verified the availability of the content at the distributor.*"

Furthermore, independent claim 10 requires:

> "*a receiver that is part of a system for distributing a content to select a distributor of the content out of a plurality of distributors, to request and receive the content from the distributor selected, to determine an identity associated with the content, to verify an availability of the content at the distributor based on the identity determined, and to only select the distributor after verifying the availability of the content at the distributor.*"

Applicant essentially repeats the above arguments from claim 1 and applies them to claims 8 – 10 pointing out why Legout fails to disclose at least the above claimed features. Therefore, claims 8 – 10 are patentable over Legout.

Claims 2 – 4 and 6 are patentable for at least the reason that they depend from claim 1, with each claim containing further distinguishing features.

Withdrawal of the rejection of claims 1 – 4, 6 and 8 – 10 under 35 U.S.C. §102(b) is respectfully requested.

35 U.S.C. §103

Under 35 U.S.C. §103(a), the Office Action rejects claims 5 and 7 over Legout in view of Kaufman et al. (WO 0191417 A2), hereinafter "Kaufman."

However, Applicant submits that Kaufman, either singly or in combination with Legout fails to bridge the feature gap as pointed out above with regard to independent claim 1 and the features missing in Legout. Therefore, claims 5 and 7 are patentable for at least the reason that they depend from claim 1, with each claim containing further distinguishing features. Withdrawal of the rejection of claims 5 and 7 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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